(19)

The Supreme Court

OF THE

United States

October Term, 1941

No. 180

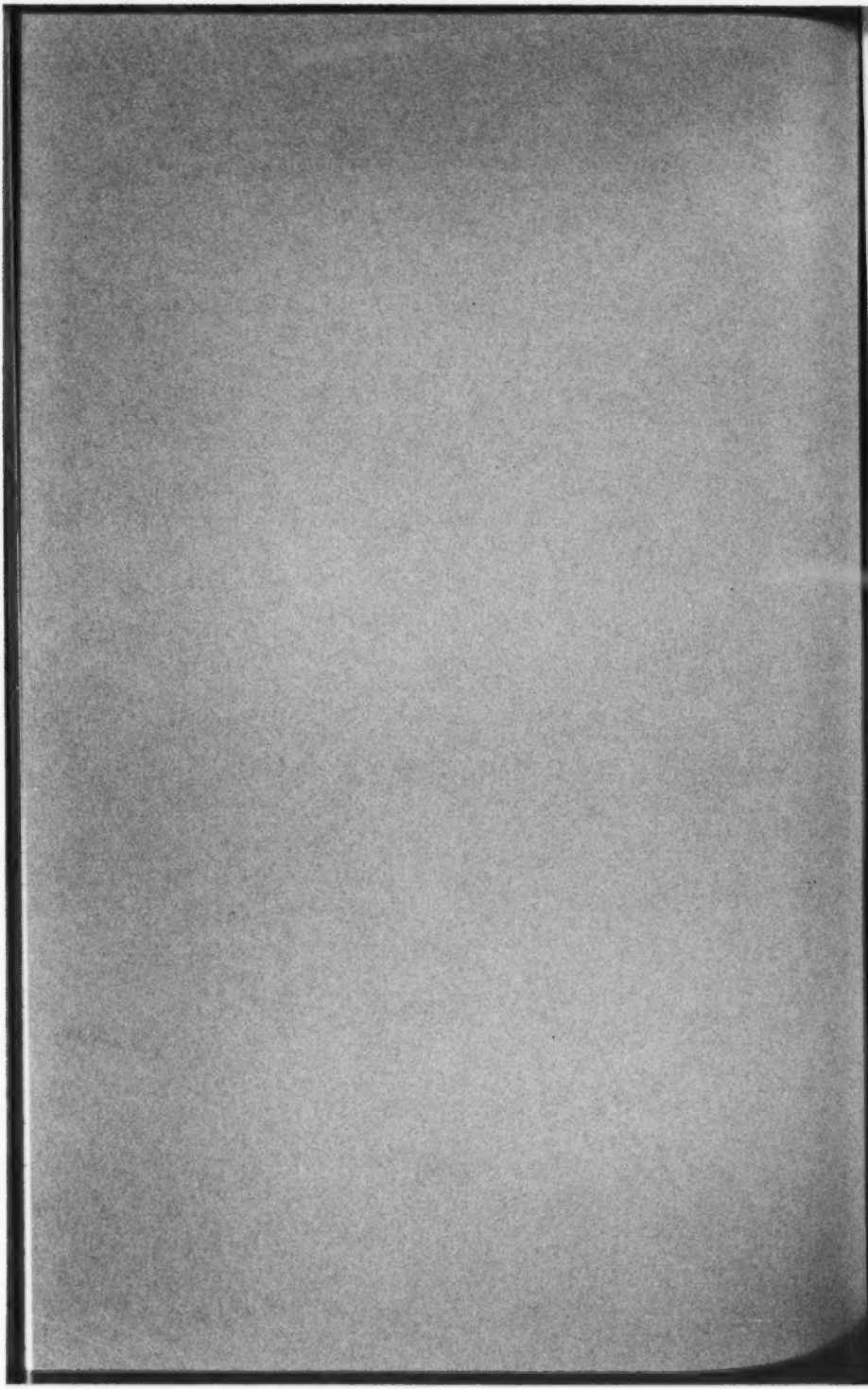
RALPH WAGNER,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING OUT OF TIME AND PETITION FOR REHEARING

RALPH W. WAGNER,
Rancho Chihuahua,
Route 1, Box 229A,
Saugus, California,
Petitioner, Pro Per.



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MOTION FOR LEAVE TO FILE PETITION FOR REHEARING OUT OF TIME

To the Honorable, The Supreme Court of the United States:

Comes now Ralph Wagner, petitioner herein, and moves this Honorable Court for an order granting a rehearing of his Petition for Writ of Certiorari, which was heretofore denied on October 13, 1941, on the following grounds:

1. That petitioner's Petition for Writ of Certiorari brought before this Honorable Court for its first determination the judicial construction applicable to the promulgated Rules of Practice and Procedure on May 7, 1934, in criminal cases, set forth in Rule II 2 (3), pursuant to an Act of Congress approved March 8, 1934.

2. That in addition to affidavits of newly discovered material evidence contained in Transcript of Record, on file herein, petitioner submits in his Petition for Rehearing additional affidavits of newly discovered material evidence, which he submits substantially supports his right to a new trial.

3. The following letters from the Honorable Clerk of the Supreme Court:

OFFICE OF THE CLERK,
SUPREME COURT OF THE
UNITED STATES,
WASHINGTON, D. C.

November 8, 1941.

Mr. Ralph W. Wagner,
Rancho Chihuahua, Route 1, Box 229 A,
Saugus, California.

Dear Sir:

Your letter addressed to the President was by him referred to the Department of Justice and has, in turn, been directed to this Office.

Your attorney was advised by wire on October 13th of the denial of the petition for certiorari in the case of Wagner v. The United States of America, No. 180, October Term, 1941.

Your telegram to the President arrived too late to be considered as an application for an extension of time within which to file such petition for rehearing, the time having expired on November 7th.

Under these circumstances, however, I would suggest that should you desire to file a petition for rehearing you forward 40 printed copies thereof, prefaced by a motion for leave to file out of time. Your petition for rehearing will then receive the same consideration as though it had been timely filed.

Yours truly,
CHARLES ELMORE CROPLEY, Clerk,
By E. P. Cullinan (Signed)
E. P. Cullinan
Assistant.

EPC:c

OFFICE OF THE CLERK,
SUPREME COURT OF THE
UNITED STATES,

AIR MAIL Washington, D. C.
November 10, 1941.

Mr. Ralph W. Wagner,
Rancho Chihuahua, Route 1, Box 229 A,
Saugus, California.

Dear Sir:

Late Saturday, November 8th, Mr. Chief Justice Stone handed me your telegram sent to him with reference to an extension of time within which to file petition for rehearing in the case of Wagner vs. United States, No. 180, October Term, 1941.

Earlier on that day I had written you in response to a telegram which you sent to the President and which eventually reached this office. The Chief Justice directs me to confirm the suggestions outlined in that letter.

This letter is being sent air mail and it is possible it may reach you prior to my letter of November 8th which was sent by regular mail.

Yours truly,
CHARLES ELMORE CROPLEY, Clerk
By (Signed) H. B. Willey
Deputy

HBW:EG

Dated November 27, 1941

RALPH W. WAGNER
Ralph Wagner, appearing in his own behalf.